

**Article 5.5 230**  
**Hearing Aid Providers**

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PART 1  
GENERAL PROVISIONS

1 **12-230-101. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS  
2 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 230.  
3

4 **12-230-102. [Formerly 12-5.5-101] Definitions.** As used in this article 230, unless  
5 the context otherwise requires:

6 (1) "Applicant" means a person applying for licensure under this article 230.

7 (2) "Apprentice" means a person who holds a current license as an apprentice  
8 pursuant to this article 230.

9 ~~(3) "Director" means the director of the division or the director's designee.~~  
10 <{*Redundant with definitions common provision, 12-20-102 (6)*}>

11 ~~(4)~~(3) "Dispense", with regard to a hearing aid, means to sell or transfer title,  
12 possession, or the right to use by lease, bailment, or any other method. The term does not  
13 apply to wholesale transactions with distributors or dealers.

14 ~~(5) "Division" means the division of professions and occupations in the department~~  
15 ~~of regulatory agencies.~~ <{*Redundant with definitions common provision, 12-20-102 (7)*}>

16 ~~(6)~~ (4) (a) "Hearing aid" means a wearable device designed or offered to be  
17 customized for the purpose of compensating for impaired human hearing and includes:

18 (I) Any parts, attachments, or accessories to the instrument or device, as defined in  
19 rules adopted by the director; and

20 (II) Ear molds, excluding batteries and cords.

21 (b) The term does not include a surgically implanted hearing device.

22 ~~(7)~~(5) "Hearing aid provider" means a person engaged in the practice of dispensing,  
23 fitting, or dealing in hearing aids.

24 ~~(8) "Licensee" means a person who holds a current license as a hearing aid provider~~  
25 ~~pursuant to this article.~~ <{*Redundant with definitions common provision, 12-20-102 (10)*}>

26 ~~(9)~~ (6) "Practice of dispensing, fitting, or dealing in hearing aids" includes:

27 (a) Selecting and adapting hearing aids for sale;

28 (b) Testing human hearing for purposes of selecting and adapting hearing aids for  
29 sale; and

30 (c) Making impressions for ear molds and counseling and instructing prospective  
31 users for purposes of selecting, fitting, adapting, or selling hearing aids.

32 ~~(10)~~ (7) "Surgically implanted hearing device" means a device that is designed to  
33 produce useful hearing sensations to a person with a hearing impairment and that has, as one  
34 or more components, a unit that is surgically implanted into the ear, skull, or other interior  
35 part of the body. The term includes any associated unit that may be worn on the body.  
36

37 **12-230-103. [Formerly 12-5.5-102] Scope of article - exemption.** (1) This article  
38 230 does not apply to persons who are:

39 (a) Licensed pursuant to section 22-60.5-210 C.R.S., and who are not licensed under

1 this article **230** for work undertaken as part of their employment by, or contractual agreement  
2 with, the public schools; or

3 (b) Engaged in the practice of audiology or the practice of dispensing, fitting, or  
4 dealing in hearing aids in the discharge of their official duties in the service of the United  
5 States armed forces, public health service, coast guard, or veterans administration.

6 (2) This article **230** does not apply to the wholesale sales of hearing aids.

7 (3) Nothing in this article **230** authorizes a hearing aid provider to engage in the  
8 practice of medicine as defined in **section ~~12-36-106~~ 12-240-XXX**.

9 (4) Nothing in this article **230** prohibits a business or licensee from:

10 (a) Hiring and employing unlicensed staff to assist with conducting business practices  
11 and to assist in dispensing hearing aids if the unlicensed staff are properly supervised by a  
12 licensee; except that the employees may not conduct hearing tests or perform the initial  
13 fitting of hearing aids; or

14 (b) Performing tasks that would be permissible if the licensee was not licensed.

15 (5) This article **230** does not apply to the dispensing of hearing aids outside of this  
16 state.

17 (6) An audiologist licensed pursuant to article ~~29-9~~ **210** of this title **12** is not required  
18 to obtain a license pursuant to this article **230**.

19  
20 **12-230-104. [Formerly 12-5.5-103] Scope of practice.** (1) The scope of practice  
21 for a hearing aid provider includes:

22 (a) Eliciting patient case histories, including medical, otological, pharmacological,  
23 occupational, and previous amplification history and patient attitudes and expectations;

24 (b) Administering otoscopy for the purpose of identifying possible otological  
25 conditions, including conditions described in section **12-5.5-301 (1)(b) 6-1-701 (2)(d)**, that  
26 may indicate the need for medical referral or that may have a bearing on needed rehabilitative  
27 measures, outcomes, or recommendations; *<{The cross-reference in paragraph (b) is to a  
28 nonexistent provision of law. It appears that when the this practice act was reenacted in  
29 2013, the introduced bill, SB13-238, contained a provision, 12-5.5-301 (1)(b), that listed  
30 conditions that would indicate the need for a referral. The bill was amended to remove that  
31 provision, and a comparable provision was added in SB13-228, which reenacted sec. 6-1-  
32 701 re: deceptive trade practices related to the dispensing of hearing aids. That statute, in  
33 sec. 6-1-701 (2)(d), lists the conditions that appeared in the introduced version of SB13-  
34 238 and appears to be the correct statute to reference in the above paragraph (b).  
35 Agree?}>*

36 (c) Administering and interpreting tests of human hearing, including appropriate  
37 objective and subjective methodology and measures;

38 (d) Determining a person's candidacy for hearing aids or hearing assistive devices,  
39 referring the person for surgically implanted hearing device evaluation, or recommending

1 other clinical, rehabilitative, or medical interventions;

2 (e) Prescribing, selecting, and fitting appropriate hearing instruments and assistive  
3 devices, including appropriate technology, electroacoustic targets, programming parameters,  
4 and special applications, as indicated;

5 (f) Assessing hearing instrument efficacy using appropriate fitting verification  
6 methodology, including available fitting validation methods;

7 (g) Taking ear impressions and preparing ear molds for hearing instruments, assistive  
8 devices, telecommunications applications, ear protection, and other related applications;

9 (h) Designing and modifying ear molds and auditory equipment to meet individual  
10 patient needs;

11 (i) Providing counseling and aural rehabilitative services in the use and care of  
12 hearing instruments and assistive devices and for effectively using communication coping  
13 strategies and other approaches to foster optimal patient rehabilitation; and

14 (j) Providing supervision and training of those entering the dispensing profession.  
15

16 **12-230-105. [Formerly 12-5.5-104] Title protection - use of title.** It is unlawful for  
17 any person to use the title "hearing aid provider" or "hearing aid dispenser" unless he or she  
18 is licensed as a hearing aid provider pursuant to this article **230**.  
19

20 **12-230-106. [Formerly 12-5.5-105] Repeal of article.** (1) This article **230** is  
21 repealed, effective September 1, 2020.

22 (2) ~~Prior to this~~ BEFORE ITS repeal, the department of regulatory agencies shall review  
23 the licensing and supervisory functions of the director as provided in ARE SCHEDULED FOR  
24 REVIEW IN ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~  
25

26 PART 2  
27 LICENSING  
28

29 **12-230-201. [Formerly 12-5.5-201] License required - application - qualifications.**  
30 (1) A hearing aid provider shall obtain a license pursuant to this section before engaging in  
31 the practice of dispensing, fitting, or dealing in hearing aids.

32 (2) (a) An applicant shall submit an application to the director containing the  
33 information described in this subsection (2) and shall pay a fee determined and collected  
34 pursuant to section ~~24-34-105, C.R.S. 12-20-105~~. The director may deny an application for  
35 licensure if the required information is not submitted or if an applicant's apprentice license,  
36 issued pursuant to section ~~12-5.5-204 12-230-204~~, has been revoked. If an applicant or  
37 licensee fails to notify the director of a change in the submitted information within thirty days  
38 after the change, the failure is cause for disciplinary action.

39 (b) An applicant shall include the following information in every application for

1 licensure pursuant to this section:

2 (I) The applicant's name, business address, and business telephone number and other  
3 contact information as determined by the director;

4 (II) A statement indicating whether:

5 (A) A hearing aid provider license, certificate, or registration was issued to the  
6 applicant by a local, state, or national health care agency;

7 (B) The license, certificate, or registration was suspended or revoked;

8 (C) Charges or complaints are pending against the applicant; and

9 (D) Disciplinary action was taken.

10 (3) In order to qualify for licensure pursuant to this section, an applicant must either:

11 (a) Have passed the national competency examination of the National Board for  
12 Certification in Hearing Instrument Sciences (NBC-HIS), unless the director determines, by  
13 rule, that this examination no longer meets the minimum standards necessary for licensure,  
14 in which case, only an examination that the applicant passed prior to the date of the ruling  
15 will be acceptable; or

16 (b) Have passed an appropriate entry-level examination, as determined by the  
17 director, and:

18 (I) Completed at least six months of training with an audiologist or licensed hearing  
19 aid provider, pursuant to section ~~12-5.5-204~~ **12-230-204**; or

20 (II) Have an associate's degree in hearing aid fitting and dispensing that, at the time  
21 the applicant was enrolled and graduated, was offered by an institution of higher education  
22 or a postsecondary education program accredited by a national, regional, or state agency  
23 recognized by the United States department of education, or a program approved by the  
24 director.

25  
26 **12-230-202. [Formerly 12-5.5-202] Licensure - certificate - expiration - renewal**  
27 **- reinstatement - fees.** (1) (a) The director shall license all applicants who meet the  
28 requirements for licensure in this article **230**.

29 (b) The director shall issue or deny a license within sixty days after the date the  
30 application is received.

31 (c) The director shall give each licensee a license bearing a unique license number.  
32 The licensee shall include the license number on all written contracts and receipts.

33 (2) ~~Licenses issued pursuant to this article expire pursuant to, a schedule established~~  
34 ~~by the director and must be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S.~~  
35 ~~The director shall establish renewal fees and delinquency fees for reinstatement pursuant to~~  
36 ~~section 24-34-105, C.R.S. If a person fails to renew his or her license pursuant to the~~  
37 ~~schedule established by the director, the license expires~~ **230 ARE SUBJECT TO THE RENEWAL,**  
38 **EXPIRATION, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS OF SECTION 12-20-202 (1)**  
39 **AND (2). A person whose license has expired is subject to the penalties set forth in this article**

1 **230** or in section ~~24-34-102 (8), C.R.S 12-20-202 (1).~~ <{Redundant with  
2 reinstatement/renewal common provision, 12-20-202. Recommend amending as  
3 indicated.}>

4  
5 **12-230-203. [Formerly 12-5.5-203] Licensure by endorsement - rules.** (1) The  
6 director shall issue a license by endorsement to practice as a hearing aid provider in this state  
7 to an individual who possesses an active license in good standing to practice in that  
8 profession in another state or territory of the United States or in a foreign country if the  
9 applicant:

10 (a) Presents proof satisfactory to the director that the individual possesses a valid  
11 license from another state or jurisdiction that requires qualifications substantially equivalent  
12 to the qualifications for licensure in this state and meets all other requirements for licensure  
13 pursuant to this article **230**; and

14 (b) Pays the licensure fee established under section ~~12-5.5-201~~ **12-20-105.**  
15 <{Recommend referring to fees common provision.}>

16 (2) The director may specify by rule what constitutes substantially equivalent  
17 qualifications for the purposes of this section.

18  
19 **12-230-204. [Formerly 12-5.5-204] Apprentice license - expiration - rules.** (1) A  
20 person training to be a licensed hearing aid provider shall submit to the director an  
21 application containing the information described in subsection (2) of this section and shall  
22 pay an apprentice license fee determined and collected pursuant to section ~~12-5.5-201~~ **12-20-**  
23 **105.** <{Recommend referring to fees common provision.}>

24 (2) **On and after June 1, 2014,** the director shall issue an apprentice license to a  
25 person who provides, to the director's satisfaction, verification of training to become a  
26 licensed hearing aid provider, which training is under the direct supervision of a licensed  
27 hearing aid provider whose license is in good standing. <{While this date is likely  
28 unnecessary, since this act has not been through sunset after it was reenacted in 2013,  
29 recommend retaining the date at this time. Similar to how this was addressed in landscape  
30 architects and private investigator practice acts.}>

31 (3) During the training period:

32 (a) An apprentice is not permitted to sell hearing aids independently of the  
33 supervising licensed hearing aid provider;

34 (b) A supervising licensed hearing aid provider retains ultimate responsibility for the  
35 care provided by the apprentice and is subject to disciplinary action by the director for failure  
36 to provide adequate supervision.

37 (4) Any person issued an apprentice license under this section is subject to:

38 (a) Discipline under section ~~12-5.5-402~~ **12-230-302** for engaging in an act that  
39 constitutes grounds for discipline under section ~~12-5.5-501~~ **12-230-401**; and <{See comment

1 *above about SB13-238 and SB13-228. These citations were not corrected when SB13-238*  
2 *was amended to remove portions related to deceptive trade practices. The current*  
3 *references are to nonexistent statutes. }>*

4 (b) A cease-and-desist order under section ~~12-5.5-403~~ SECTIONS 12-20-405 AND 12-  
5 230-303 for engaging in behavior set forth in section ~~12-5.5-403~~ 12-20-405 <{Adding  
6 reference to cease-and-desist orders common provision, 12-20-405.}>

7 (5) An apprentice license issued under this section is renewable and is subject to  
8 section ~~12-5.5-202 (2)~~ 12-230-202 (2).

9 (6) An associate license issued pursuant to section 12-5.5-202.5 as it existed prior to  
10 its repeal in 2012 remains valid until the expiration date on the license. The director shall not  
11 renew, or issue new, associate licenses. <{Is this still an issue? Can we repeal this  
12 provision?}>

13 (7) On and after June 1, 2014, a person in this state training to be a licensed hearing  
14 aid provider must possess a valid apprentice license issued by the director pursuant to this  
15 article 230 and rules promulgated pursuant to this article 230. <{Same comment about date  
16 as noted above.}>

17  
18 ~~12-5.5-204. Disposition of fees - legislative intent. It is the intent of the general~~  
19 ~~assembly to fund all direct and indirect costs incurred in the implementation of this article~~  
20 ~~with annual license and renewal fees. The director shall transmit all fees collected under this~~  
21 ~~article to the state treasurer, who shall credit them to the division of professions and~~  
22 ~~occupations cash fund created in section 24-34-105, C.R.S. <{Redundant with fees common~~  
23 ~~provision, 12-20-105. Recommend repealing.}>~~

24  
25 **12-230-205. [Formerly 12-5.5-206] Retention of records - licensee's obligation.**  
26 Each licensee who sells a hearing aid or provides goods or services to a customer shall  
27 develop a written plan to ensure the maintenance of customer records. The records must be  
28 retained for at least seven years and identify the customer by name; the goods or services,  
29 except batteries, minor parts, and accessories, provided to each customer; and the date and  
30 price of each transaction.

31  
32 PART 3  
33 DIRECTOR: POWERS, DUTIES, AND RULES  
34

35 **12-230-301. [Formerly 12-5.5-301] Director - powers - duties - rules.** (1) The  
36 director, IN ACCORDANCE WITH SECTION 12-20-403, may make investigations and inspections  
37 as necessary to determine whether an applicant or licensee has violated this article 230 or any  
38 rule adopted by the director. <{Recommend adding reference to disciplinary procedures  
39 common provision, 12-20-403.}>

1 (2) The director may apply, PURSUANT TO SECTION 12-20-406, to a court of competent  
2 jurisdiction for an order enjoining any act or practice that constitutes a violation of this article  
3 230. Upon a showing that a person is engaging in or intends to engage in the act or practice,  
4 the court shall grant an injunction, restraining order, or other appropriate order, regardless  
5 of the existence of another remedy. All proceedings related to such THE orders are governed  
6 by the Colorado rules of civil procedure. <{*Some redundancy with injunctive relief*  
7 *common provision, 12-20-406. Suggest amending to add reference to common*  
8 *provision.*}>

9 (3)(a) The director or an administrative law judge has the power to administer oaths,  
10 take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses  
11 and the production of all relevant papers, books, records, documentary evidence, and  
12 materials in any hearing, investigation, accusation, or other matter coming before the director  
13 pursuant to this article. The director may appoint an administrative law judge pursuant to part  
14 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to  
15 the director.

16 (b) Upon failure of any witness to comply with a subpoena or process, the district  
17 court of the county in which the subpoenaed person or licensee resides or conducts business,  
18 upon application by the director with notice to the subpoenaed person or licensee, may issue  
19 to the person or licensee an order requiring that person or licensee to appear before the  
20 director; to produce the relevant papers, books, records, documentary evidence, or materials  
21 if so ordered; or to give evidence touching the matter under investigation or in question. The  
22 court may punish a failure to obey the order of the court as a contempt of court.  
23 <{*Redundant with subpoena powers and ALJ common provisions, 12-20-403 (2) and (3).*  
24 *Recommend repealing.*}>

25 (4) (3) No later than December 31, 2013, and thereafter as necessary, the director  
26 shall adopt rules necessary for the enforcement or administration of this article 230. <{*Rule-*  
27 *making common provision, 12-20-204, does not refer to "enforcement" of the article so*  
28 *recommend retaining this rule-making provision.*}>

29  
30 **12-230-302. [Formerly 12-5.5-302] Disciplinary actions.** (1) If the director  
31 determines that an applicant or licensee has committed any of the acts specified in part 4 of  
32 this article 230, the director may:

33 (a) Issue a letter of admonition PURSUANT TO SECTION 12-20-404 (1)(a) AND (4);  
34 <{*Recommend adding reference to letters of admonition authority in disciplinary actions*  
35 *common provision, 12-20-404 (1)(a) and (4).*}>

36 (b) Place a licensee on probation PURSUANT TO SECTION 12-20-404 (1)(b);  
37 <{*Recommend adding reference to imposing probation authority in disciplinary actions*  
38 *common provision, 12-20-404 (1)(b).*}>

39 (c) Impose an administrative fine not to exceed two thousand five hundred dollars for

1 each separate offense; or

2 (d) ~~Deny, refuse to renew, revoke, or suspend the license of an applicant or licensee~~  
3 ~~TAKE DISCIPLINARY ACTION AS AUTHORIZED IN SECTION 12-20-404 (1)(d).~~ <{*Recommend*  
4 *adding reference to authority to take action against license in disciplinary actions common*  
5 *provision, 12-20-404 (1)(d).*}>

6 (2) ~~When a complaint or investigation discloses an instance of misconduct that, in the~~  
7 ~~opinion of the director, warrants formal action, the complaint shall not be resolved by a~~  
8 ~~deferred settlement, action, judgment, or prosecution.~~ <{*Redundant with no deferment*  
9 *common provision, 12-20-404 (2). Recommend repealing.*}>

10 (3) ~~A person whose license to practice as a hearing aid provider or apprentice under~~  
11 ~~this article is revoked, or who surrenders his or her license to avoid discipline, is ineligible~~  
12 ~~to apply for any new license under this article for two years after the date of revocation or~~  
13 ~~surrender of his or her license.~~ <{*Redundant with waiting period common provision,*  
14 *12-2-404 (3). Recommend repealing.*}>

15 (4) (a) ~~When a complaint or investigation discloses an instance of misconduct that,~~  
16 ~~in the opinion of the director, does not warrant formal action by the director but that should~~  
17 ~~not be dismissed as being without merit, the director may issue and send a letter of~~  
18 ~~admonition to the licensee.~~

19 (b) (I) ~~When the director sends a letter of admonition to a licensee pursuant to~~  
20 ~~paragraph (a) of this subsection (4), the director shall also advise the licensee that he or she~~  
21 ~~has the right to request in writing, within twenty days after service of the letter, that the~~  
22 ~~director initiate formal disciplinary proceedings to adjudicate the propriety of the conduct~~  
23 ~~upon which the letter of admonition is based.~~

24 (II) ~~If the licensee makes the request for adjudication, the director shall vacate the~~  
25 ~~letter of admonition and shall process the matter by means of formal disciplinary~~  
26 ~~proceedings.~~ <{*Redundant with letters of admonition common provision, 12-2-404 (4).*  
27 *Recommend repealing subsection (4).*}>

28 (5) (2) ~~When a complaint or investigation discloses an instance of conduct that does~~  
29 ~~not warrant formal action by the director and, in the opinion of the director, should be~~  
30 ~~dismissed, but the director has noticed indications of possible errant conduct by the licensee~~  
31 ~~that could lead to serious consequences if not corrected, The director may send the A licensee~~  
32 ~~a confidential letter of concern UNDER THE CIRCUMSTANCES SPECIFIED IN SECTION 12-20-404~~  
33 ~~(5).~~ <{*Redundant with confidential letters of concern common provision, 12-20-404 (5).*  
34 *Recommend amending as indicated.*}>

35 (6) (3) The director shall not enforce any provisions of this article **230** or rules  
36 promulgated pursuant to this article **230** that are held unconstitutional, invalid, or inconsistent  
37 with federal laws or regulations, including rules promulgated by the United States food and  
38 drug administration.

39 (7) ~~All fines collected pursuant to this section shall be transmitted to the state~~

1 treasurer, who shall credit them to the general fund. <{*Redundant with disposition of fines*  
2 *common provision, 12-20-404 (6). Recommend repealing.*}>

3  
4 **12-230-303. [Formerly 12-5.5-203] Cease-and-desist orders - unauthorized**  
5 **practice - penalties.** (1) (a) If it appears to the director, based upon credible evidence as  
6 presented in a written complaint by any person, that a licensee is acting in a manner that is  
7 a threat to the health and safety of the public, or a person is acting or has acted without the  
8 required license, the director may issue an order to cease and desist the activity. The order  
9 must set forth the statutes and rules alleged to have been violated, the facts alleged to have  
10 constituted the violation, the specific harm that threatens the health and safety of the public,  
11 and the requirement that all unlawful acts or unlicensed practices immediately cease.

12 (b) Within ten days after service of the order to cease and desist pursuant to paragraph  
13 (a) of this subsection (1), the respondent may request a hearing on the question of whether  
14 acts or practices in violation of this article have occurred. The hearing must be conducted  
15 pursuant to sections 24-4-104 and 24-4-105, C.R.S.

16 (2) (a) If it appears to the director, based upon credible evidence as presented in a  
17 written complaint by any person, that a person has violated any other portion of this article,  
18 then, in addition to any specific powers granted pursuant to this article, the director may issue  
19 to the person an order to show cause as to why the director should not issue a final order  
20 directing the person to cease and desist from the unlawful act or practice.

21 (b) The director shall promptly notify the person of the issuance of the order and shall  
22 include in the notice a copy of the order, the factual and legal basis for the order, and the date  
23 set by the director for a hearing on the order. The director may serve the notice by personal  
24 service, by first-class United States mail, postage prepaid, or as may be practicable upon any  
25 person against whom the order is issued. Personal service or proof of receipt of mailing of  
26 an order or document pursuant to this paragraph (b) constitutes notice to the person of the  
27 existence and contents of the order or document.

28 (c) (I) The director must commence the hearing on an order to show cause no sooner  
29 than ten, and no later than forty-five, calendar days after the date of transmission or service  
30 of the notification by the director as provided in paragraph (b) of this subsection (2). The  
31 director may continue the hearing by agreement of all parties based upon the complexity of  
32 the matter, number of parties to the matter, and legal issues presented in the matter, but in no  
33 event may the director commence the hearing later than sixty calendar days after the date of  
34 transmission or service of the notification.

35 (II) If a person against whom an order to show cause has been issued pursuant to  
36 paragraph (a) of this subsection (2) does not appear at the hearing, the director may present  
37 evidence that notification was properly sent or served upon the person pursuant to paragraph  
38 (b) of this subsection (2) and any other evidence related to the matter as the director deems  
39 appropriate. The director shall issue the order within ten days after the director's

1 determination related to reasonable attempts to notify the respondent, and the order becomes  
2 final as to that person by operation of law. The conduct of the hearing is governed by  
3 sections 24-4-104 and 24-4-105, C.R.S.

4 (III) If the director reasonably finds that the person against whom the order to show  
5 cause was issued is acting or has acted without the required license or has or is about to  
6 engage in acts or practices constituting violations of this article or rules adopted under this  
7 article, the director may issue a final cease-and-desist order directing the person to cease and  
8 desist from further unlawful acts or unlicensed practices.

9 (IV) The director shall provide notice, in the manner set forth in paragraph (b) of this  
10 subsection (2), of the final cease-and-desist order within ten calendar days after the hearing  
11 conducted pursuant to this paragraph (c) to each person against whom the final order has  
12 been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) is  
13 effective when issued and constitutes a final order for purposes of judicial review.

14 (3) The director may enter into a stipulation with a person if it appears to the director,  
15 based upon credible evidence presented to the director, that the person has engaged in or is  
16 about to engage in:

17 (a) An unlicensed act or practice;

18 (b) An act or practice constituting a violation of this article, a rule promulgated  
19 pursuant to this article, or an order issued pursuant to this article; or

20 (c) An act or practice constituting grounds for administrative sanction pursuant to this  
21 article.

22 (4) If any person fails to comply with a final cease-and-desist order or a stipulation,  
23 the director may request the attorney general or the district attorney for the judicial district  
24 in which the alleged violation exists to bring, and if so requested the attorney shall bring, suit  
25 for a temporary restraining order and for injunctive relief to prevent any further or continued  
26 violation of the final order.

27 (5) A person aggrieved by the final cease-and-desist order may seek judicial review  
28 of the director's determination or of the director's final order in a court of competent  
29 jurisdiction. <{*Subsections (1) through (6) are redundant with the cease-and-desist  
30 common provision, 12-20-405. Recommend repealing and replacing with reference to  
31 common provision.*}>

32 (1) THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES  
33 AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405.

34 (6) (2) A person who practices or offers or attempts to practice as a hearing aid  
35 provider or who engages in the practice of dispensing, fitting, or dealing in hearing aids  
36 without an active hearing aid provider license issued under this article commits a class 2  
37 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first  
38 offense, and, for the second or any subsequent offense, the person commits a class 6 felony  
39 and shall be punished as provided in section 18-1.3-401, C.R.S. 230 IS SUBJECT TO PENALTIES

1 PURSUANT TO SECTION 12-20-407 (1)(a). <{ *Redundant with unauthorized practice common*  
2 *provision, 12-20-407. Recommend amending as indicated.* }>

3  
4 ~~**12-5.5-304. Immunity.** The director, the director's staff, a person acting as a witness  
5 or consultant to the director, and a witness testifying in a proceeding authorized under this  
6 article, is immune from liability in any civil action brought against him or her for acts  
7 occurring while acting in his or her capacity as director, staff, consultant, or witness,  
8 respectively, if the individual was acting in good faith within the scope of his or her  
9 respective capacity, made a reasonable effort to obtain the facts of the matter as to which he  
10 or she acted, and acted in the reasonable belief that the action taken by him or her was  
11 warranted by the facts. Any person participating in good faith in lodging a complaint or  
12 participating in any investigative or administrative proceeding pursuant to this article is  
13 immune from any civil or criminal liability that may result from that participation.  
14 <{ *Redundant with immunity common provision, 12-20-402. Recommend repealing.* }>~~

15  
16 PART 4  
17 GROUNDS FOR DISCIPLINE  
18

19 **12-230-401. [Formerly 12-5.5-401] Grounds for discipline.** (1) The following acts  
20 constitute grounds for discipline:

21 (a) Making a false or misleading statement or omission in an application for  
22 licensure;

23 (b) Violating any provision of this article **230**, a rule promulgated by the director  
24 under this article **230**, or an order issued by the director under this article **230**;

25 (c) Using false or misleading advertising;

26 (d) Representing that the service or advice of a person licensed to practice medicine  
27 will be used or made available in the selection, fitting, adjustment, maintenance, or repair of  
28 hearing aids when that is not true or using the terms "doctor", "clinic", "state-licensed clinic",  
29 "state-registered", "state-certified", "state-approved", or any other term, abbreviation, or  
30 symbol when it would give the false impression that service is being provided by persons  
31 trained in medicine or that the licensee's service has been recommended by the state when  
32 that is not the case, or when it would be false or misleading;

33 (e) Directly or indirectly giving or offering to give money or anything of value to any  
34 person who advises another in a professional capacity as an inducement to influence the  
35 person or have the person influence others to purchase or contract to purchase products sold  
36 or offered for sale by a licensee or influencing persons to refrain from dealing in the products  
37 of competitors;

38 (f) Employing a device, a scheme, or artifice with the intent to defraud a purchaser  
39 of a hearing aid;

1 (g) Selling a hearing aid to a child under eighteen years of age without receiving  
2 documentation that the child has been examined by a licensed physician and an audiologist  
3 within six months prior to the fitting;

4 (h) Intentionally disposing of, concealing, diverting, converting, or otherwise failing  
5 to account for any funds or assets of a purchaser of a hearing aid that is under the applicant's,  
6 licensee's, or apprentice's control;

7 (i) Making a false or misleading statement of fact concerning goods or services or the  
8 buyer's right to cancel with the intention or effect of deterring or preventing the buyer from  
9 exercising the buyer's right to cancel, or refusing to honor a buyer's request to cancel a  
10 contract for the purchase of a hearing aid, if the request was made during the rescission  
11 period set forth in section ~~12-5.5-301(2)(g)~~ **6-1-701(2)(e)**; <{*See note above above SB13-*  
12 *238. The rescission period provision was included in the deceptive trade practices bill,*  
13 *SB13-228, and appears now in 6-1-701(2)(e).*}>

14 (j) Charging, collecting, or recovering any cost or fee for any good or service that has  
15 been represented by the licensee as free;

16 (k) Failing to adequately supervise a licensed hearing aid provider apprentice or any  
17 employee pursuant to section ~~12-5.5-204 or 12-5.5-102(4)(a)~~ **12-230-204(2) OR 12-230-103**  
18 **(4)(a)**;

19 (l) Employing a sales agent or employee who violates any provision of this article  
20 **230**, a rule promulgated by the director under this article **230**, or an order issued by the  
21 director under this article **230**;

22 (m) Failing to comply with a stipulation or agreement made with the director or with  
23 a final agency order;

24 (n) Failing to respond in an honest, materially responsive, and timely manner to a  
25 complaint issued pursuant to section ~~12-5.5-402(4)~~ **THIS ARTICLE 230**; <{*This is a reference*  
26 *to a nonexistent statute, again related to the 2013 bills. It appears that reference to a*  
27 *complaint under this article will suffice.*}>

28 (o) Being convicted of, accepting a plea of guilty or nolo contendere to, or receipt of  
29 a deferred sentence in any court for a felony or for any crime involving fraud, deception,  
30 false pretense, theft, misrepresentation, false advertising, or dishonest dealing;

31 (p) Selling, dispensing, adjusting, providing training or teaching in regard to, or  
32 otherwise servicing surgically implanted hearing devices unless the hearing aid provider is  
33 an audiologist or a physician; and

34 (q) Violating the "Colorado Consumer Protection Act", article 1 of title 6. ~~C.R.S.~~